

REMARKS

In response to the restriction requirement set forth in the Office Action mailed December 11, 2008, Applicant hereby elects claims Group I, Claims 1-12 for continued examination without traverse. As required (pages 3-4) Applicant identifies claims encompassing the elected invention. Claims 1 to 12 encompass the elected invention. In response to the two species elections, Applicants also elect fluorescence-activated cell sorting for claims 3 and 8, and for claims 4 and 9, bone marrow, in both instances, without traverse. Having made the election, Applicant expressly reserves the right to file one or more continuing applications on the subject matter of the non-elected claims.

Applicant respectfully requests reconsideration. Claims 1-13 were previously pending in this application. Claim 13 is withdrawn. No claims have been added, canceled or amended. As a result, claims 1-12 are still pending for examination with claims 1, 6 and 12 being independent claims and claim 13 is withdrawn. No new matter has been added.

Rejections Under 35 U.S.C. 102 and 103

Claims 1-12 have been rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wognum et al.

The rejections are not proper as Wognum et al. is not prior art under 35 U.S.C. 102(a) and under 35 U.S.C. 103(a). Wognum et al. was published in issue 6, Volume 34 of the Archives of Medical Research, the cover of which reads November-December 2003. Moreover, this article was available online on January 14, 2004. This article was thus published after the priority date of the instant application (October 31, 2003). Wognum et al. is not prior art under 35 U.S.C. 102(a) and 103(a).

Accordingly, withdrawal of this rejection is respectfully requested.

Amendment dated

Reply to Office Action of December 11, 2008

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. C1233.70001US01 from which the undersigned is authorized to draw.

Dated: April 13, 2009

Respectfully submitted,

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